



DIVISION OF  
ENFORCEMENT

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

July 11, 2025

**By Electronic Filing**

The Honorable Jessica S. Allen  
United States District Court for the District of New Jersey  
Martin Luther King Building & U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07101

Re: *SEC v. Schessel*, No. 22-cv-03287-ES-JSA (D.N.J.)

Dear Judge Allen:

Pursuant to the Court's Orders dated May 22, 2025 (Dkt. No. 50), plaintiff U.S. Securities and Exchange Commission ("SEC"), defendant Marc S. Schessel ("Schessel"), and intervenor the United States of America (collectively the "parties"), write to set forth the parties' positions regarding the status of settlement discussions between the SEC and Schessel and the current stay of discovery in this matter.

To further settlement discussions, the SEC and Schessel join in requesting that the stay of discovery remain in place until Schessel's sentencing in *United States v. Schessel*, No. 22-CR-374-ES (D.N.J.) (the "Criminal Case"). Although the SEC and Schessel hoped to be in a position to provide a more substantive update on settlement discussions in this joint letter, Schessel's sentencing in Criminal Case, which was scheduled to occur on July 8, 2025, has been adjourned until September 4, 2025. Criminal Case, Text Order, June 26, 2025.

As we previously advised the Court, both parties intend to engage in settlement discussions promptly after Schessel is sentenced, given that the criminal sentence may inform the monetary terms of a resolution in this civil action.<sup>1</sup> See, e.g., *SEC v. Rajaratnam*, 822 F. Supp. 2d 432, 434 (S.D.N.Y. 2011) ("The amount of any financial penalty in any parallel criminal action may also be relevant" to the amount of penalties in an SEC

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<sup>1</sup> The SEC further notes that, even if the parties are not able to reach a settled resolution, discovery will likely be unnecessary, because the SEC would move for summary judgment given that Schessel has already been convicted of securities fraud on substantially the same facts alleged in the complaint here. Compare ECF No. 1 (Complaint) with *United States v. Schessel*, No. 22-CR-374-ES, ECF No. 1 (Indictment); see also *SEC v. Cammarata*, 2023 WL 5644689, at \*9 (E.D. Pa. Aug. 31, 2023) ("A criminal conviction conclusively establishes the defendant's civil liability as to those legal or factual issues that were resolved in the criminal proceeding."); *SEC v. LaGuardia*, 2023 WL 4266014, at \*3-4 (S.D.N.Y. June 29, 2023) ("The Government bears a higher burden of proof in the criminal than in the civil context and consequently may rely on the collateral estoppel effect of a criminal conviction in the subsequent civil case.") (citation and quotation omitted).

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enforcement action). The United States takes no position on whether the stay should remain in place.

The SEC and Schessel further respectfully request that the Court adjourn the July 16, 2025 status conference in this matter until after Schessel's sentencing in the Criminal Action. The parties also propose that they file a joint status letter on or before September 8, 2025.

The parties appreciate the Court's time and attention to this matter.

Respectfully submitted,

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